



C o u n t y o f S a n L u i s O b i s p o

GENERAL SERVICES AGENCY

Janette D. Pell, Director

Cody Van Dorn, Department Administrator

REQUEST FOR PROPOSAL PS- #1206

Mobile Food and Beverage Vending Cart Service for Avila Beach Plaza

February 5, 2013

The County of San Luis Obispo (County) is currently soliciting proposals for a **mobile food and beverage vending cart service** for Avila Beach Plaza (2-year term). The minimum rental rate is \$4,000 per year for this location, payable quarterly. A sample Exclusive Use Permit with contractual terms is attached (Appendix A).

Each proposal shall specify each and every item as set forth in the attached specifications. Any and all exceptions must be clearly stated in the proposal. Failure to set forth any item in the specifications without taking exception may be grounds for rejection. The County reserves the right to reject any and all proposals and to waive any irregularity or informality in any proposal or in the Request for Proposal process, as long as, in the judgment of the County, such action will not negate fair competition and will permit proper comparative evaluation of the proposals submitted.

This Request for Proposal is posted on the County's Purchasing website at [http://www.slocounty.ca.gov/GSA/Purchasing/Current Formal Bids and Proposals.htm](http://www.slocounty.ca.gov/GSA/Purchasing/Current%20Formal%20Bids%20and%20Proposals.htm). Any changes, additions, or deletions to this Request for Proposal will be in the form of written addenda issued by the County. Any addenda will be posted on the website. Prospective proposers must check the website for addenda or other relevant new information during the response period. The County is not responsible for the failure of any prospective proposer to receive such addenda. All addenda so issued shall become a part of this Request for Proposal.

If your firm is interested and qualified, please submit four (4) hard copies and one (1) electronic copy (on CD or DVD) of your proposal by **5:00 PM on February 21, 2013** to:

County of San Luis Obispo
Barbara Adams, GSA – Purchasing
1087 Santa Rosa Street
San Luis Obispo, CA 93408

If you have any questions about the proposal process, please contact me at (805) 781-5906. For technical questions and information contact Larry laquinto at (805) 781-5209.

All questions pertaining to the content of this Request for Proposal must be made in writing via e-mail to Barbara Adams at: beadams@co.slo.ca.us. All questions will receive a response within five (5) business days. The question and its response will be posted (anonymously) on the site: [http://www.slocounty.ca.gov/GSA/Purchasing/Current Formal Bids and Proposals.htm](http://www.slocounty.ca.gov/GSA/Purchasing/Current%20Formal%20Bids%20and%20Proposals.htm). The County reserves the right to determine the appropriateness of comments / questions that will be posted on the website.

BARBARA ADAMS
Buyer – GSA Purchasing
beadams@co.slo.ca.us

Food and Beverage Vendors for Avila Beach Plaza

LOCAL VENDOR PREFERENCE

The County has established a local vendor preference. When quality, service, and other relevant factors are equal, responses to Requests for Proposals will be evaluated with a preference for local vendors. Note the following exceptions:

1. Those contracts which State Law or, other law or regulation precludes this local preference.
2. Public works construction projects.

A "local" vendor preference will be approved as such when, 1) The vendor conducts business in a fully staffed office with a physical address within the County of San Luis Obispo; 2) The vendor holds a valid business license issued by the County or a city within the County; and 3) The vendor has conducted business at the local address for not less than six (6) months prior to the due date of this Request for Proposal.

Proposals received in response to this Request for Proposal will be evaluated by the Selection Committee considering the local vendor preference described above when quality, service and other relevant factors are equal. The burden of proof will lie with proposers relative to verification of "local" vendor preference. Should any questions arise, please contact a buyer at (805) 781-5200.

	YES	NO
Do you claim local vendor preference?		
Do you conduct business in an office with a physical location within the County of San Luis Obispo?		
Business Address: _____ _____		
Years at this Address: _____		
Does your business hold a valid business license issued by the County or a City within the County?		
Name of Local Agency which issued license: _____		

Business Name: _____

Authorized Individual: _____ Title: _____

Signature: _____ Dated: _____

Food and Beverage Vendors for Avila Beach Plaza

PROPOSAL SUBMITTAL AND SELECTION

1. All proposals, consisting of four (4) hard copies and one (1) electronic copy (on CD or DVD) must be received by mail, recognized carrier, or hand delivered no later than **5:00 p.m. on February 21, 2013**. Late proposals will not be considered and will be returned, unopened.
2. All correspondence should be directed to:

San Luis Obispo County
General Services Agency
1087 Santa Rosa Street
San Luis Obispo, CA 93408
ATTENTION: Barbara Adams
Telephone: (805) 781-5906
3. All costs incurred in the preparation and submission of proposals and related documentation will be borne by the proposer.
4. It is preferred that all proposals be submitted on recycled paper, printed on two sides.
5. Selection of qualified proposers will be by an impartial Selection Committee using an approved County procedure for awarding professional contracts. Selection will be made on the basis of the proposals as submitted, although the County reserves the right to interview applicants as part of the selection process. The proceedings of the Selection Committee are confidential, and members of the Selection Committee are not to be contacted by the proposers.
6. This Request for Proposal does not constitute an offer of employment or to contract for services.
7. The County reserves the option to accept or reject any or all proposals, wholly or in part, received by reason of this request, and make more than one award, or no award, as the best interests of the County may appear.
8. All documents submitted to the County in response to this Request for Proposal will become the exclusive property of the County and may be returned to the proposer or kept by the County, in the County's sole discretion.
9. All proposals shall remain firm for thirty, (30) days following closing date for receipt of proposals.
10. The County reserves the right to award the contract to the firm who presents the proposal which in the judgment of the County, best accomplishes the desired results, and shall include, but not be limited to, a consideration of the proposed concession payments in the form of rent to the County.
11. Any contract awarded pursuant to this Request for Proposal will incorporate the requirements and specifications contained in this Request for Proposal. All information presented in a proposer's proposal will be considered binding upon selection of the successful proposer, unless otherwise modified and agreed to by the County during subsequent negotiations.
12. The successful proposer is expected to execute an Exclusive Use Permit similar to the Exclusive Use Permit in Appendix A. This sample document is for reference to the anticipated terms and conditions governing the County and the successful proposer. The proposer must take exception in their

Food and Beverage Vendors for Avila Beach Plaza

proposal to any section of the attached contract they do not agree with. Failing to do so will be deemed as acceptance by the proposer to the terms spelled out in the sample contract. The County reserves the right, in its sole discretion, to add, delete, or modify, or negotiate additional terms and conditions to the attached sample Exclusive Use Permit. BEFORE BEGINNING ANY WORK OR SUBMITTING A PROPOSAL IT IS ADVISED THAT PROPOSERS READ THE COUNTY INSURANCE AND INDEMNIFICATION REQUIREMENTS IN THE ATTACHED SAMPLE EXCLUSIVE USE PERMIT. The selected proposer will be asked to provide evidence that County insurance requirements have been met. (See Appendix A – Sample Exclusive Use Permit, Section 8, “Insurance”).

13. Under the provisions of the California Public Records Act (the “Act”), Government Code section 6252 et seq., all “public records” (as defined in the Act) of a local agency, such as the County, must be available for inspection and copying upon the request of any person. Under the Act, the County may be obligated to provide a copy of any and all responses to this Request for Proposal, if such requests are made after the contract is awarded. One exception to this required disclosure is information which fits within the definition of a confidential trade secret [Government Code section 6254(k)] or contains other technical, financial or other data whose public disclosure could cause injury to the proposer’s competitive position. If any proposer believes that information contained in its response to this Request for Proposal should be protected from disclosure, the proposer MUST specifically identify the pages of the response that contains the information by properly marking the applicable pages and inserting the following notice in the front of its response:

NOTICE: *The data on pages _ of this response identified by an asterisk (*) contain technical or financial information, which are trade secrets, or information for which disclosure would result in substantial injury to the proposer’s competitive position. Proposer requests that such data be used only for the evaluation of the response, but understands that the disclosure will be limited to the extent the County considers proper under the law. If an agreement is entered into with the proposer, the County shall have the right to use or disclose the data as provided in the agreement, unless otherwise obligated by law.*

The County will not honor any attempt by proposer to designate its entire proposal as proprietary. If there is any dispute, lawsuit, claim or demand as to whether information within the response to the Request for Proposal is protected from disclosure under the Act, proposer shall indemnify, defend, and hold harmless, the County arising out of such dispute, lawsuit, claim or demand.

PROPOSAL FORMAT

A qualifying proposal must address all of the following points and shall be in the format outlined in this section:

1. Project Title (Mobile Food and Beverage Vending Cart Service for Avila Beach Plaza)
2. Applicant or Firm Name, Owners and Principles
3. Firm Qualifications
 - a. Type of organization, size, professional registration and affiliations.
 - b. Names and qualifications of management and/or personnel assigned to these vendor services.

Food and Beverage Vendors for Avila Beach Plaza

- c. Outline of recent activities completed that are directly related to this service. Vendors must demonstrate expertise relating to the requirements of the Project Scope.
- d. Financial resources for funding operations, equipment and operations.
- e. Qualifications of consultants, subcontractors, or joint venture firm, if appropriate.
- f. Client references from recent related projects, including name, address and phone number of individual to contact for referral.

4. Understanding of and Approach to the Project

- a. Summary of approach to be taken.
- b. Description of the organization and staffing to be used for the project.
- c. Indication of information and participation the proposer will require from County staff.
- d. Indication of time frame necessary to provide vendor services once the Exclusive Use Permit is approved by the Board of Supervisors (estimated date February 26, 2013. It is the County's goal to have services available as of March 1, 2013.

5. Insurance and Indemnification

- a. The selected Vendor will be required to provide insurance coverage in the amount of \$ 1,000,000 General Liability Insurance (Contractor- non construction) and Workers Compensation Insurance for Vendor's employees.
- b. The Vendor shall provide within five (5) days after the Notice of Award is issued a certificate of liability insurance naming the County of San Luis Obispo and its employees and officers as additionally named insured. This shall be maintained in full force and effect for the duration of the contract and must be in an amount and format satisfactory to the County. See insurance requirements under Appendix A, Sample Exclusive Use Permit, Section 8, "Insurance".
- c. Vendor will indemnify the County for actions related to the Exclusive Use Permit.

PROJECT SCOPE

San Luis Obispo County General Services Agency - Parks Division is interested in procuring Food and Beverage services for visitors to Avila Beach Plaza. One vendor will be selected. The specific location in the park is indicated on Exhibit A to the sample Exclusive Use Permit, and may be changed upon mutual agreement between Vendor and County. County Parks is requesting Food and Beverage service that will be similar in type to the existing hot dog cart.

The term of the Exclusive Use Permit is two years for Avila Beach Plaza. The minimum rate for this location is \$4,000 per year, paid quarterly. County will provide the vendor with and pay for the electricity. A water connection is not available. The minimum hours of operation are stated in Exhibit B to the sample Exclusive Use Permit.

Food and Beverage Vendors for Avila Beach Plaza

The following shall be included in the proposal.

- A.** Provide a proposed menu with pricing and a description of the products to be offered. The menu and pricing will become an exhibit to the Exclusive Use Permit.
- B.** Include photographs and/or description of your mobile cart. No permanent or semi-permanent structures, kiosks, etc. shall be permitted without County's written approval.
- C.** Describe how you expect to deliver proposed services-- hours and days of operation, annual schedule. The County's preference is shown as Exhibit "B" to the sample Exclusive Use Permit.
- D.** Describe your previous work experience providing mobile vendor food and beverage service.
- E.** County Parks prefers a flat rate rent per quarter. Applicant shall propose an annual rent fee. The minimum rental rate is \$4,000 per year, paid quarterly in advance.
- F.** Applicant shall be solely responsible for providing services, equipment, supplies, and personnel for the administration, staffing, operation and maintenance of the premises. Please describe how you will accomplish these tasks.

Appendix A**AVILA BEACH FRONT STREET PLAZA
SAMPLE CONCESSION CONTRACT**

This Contract is entered into by and between the County of San Luis Obispo, a public entity in the State of California, hereinafter referred to as "County," and _____, hereinafter referred to as "Concessionaire."

County and Concessionaire hereby mutually covenant and agree as follows:

1. **Premises:** County hereby authorizes Concessionaire, subject to the conditions and limitations hereinafter set forth, to exclusively use approximately 50 square feet of County owned real property commonly referred to as the Avila Beach Front Street Plaza, hereinafter referred to as "Premises" and shown on Exhibit "A".
2. **Term:** Unless terminated sooner as provided herein, the term of this Contract shall be for a period of two (2) years, commencing on March 1, 2013 ("Initial Term") and terminating at 11:59 p.m. on March 31, 2015.
3. **Use of Premises:**
 - A. Concessionaire shall use the Premises for the sole purpose of operating a mobile food and beverage vending cart service, to serve the general public on County-owned property which is held for park purposes. Said use shall be consistent with the Avila Beach Specific Plan adopted by the San Luis Obispo County Board of Supervisors on October 17, 2000.
 - B. No permanent or semi-permanent structures, mobile or fixed carts, kiosks, booths or similar configurations are permitted on the Premises without the prior

Food and Beverage Vendors for Avila Beach Plaza

written approval by the General Services Agency Director or his/her designee, collectively ("Director").

C. Concessionaire shall oversee the Premises and all of its improvements. Concessionaire shall be responsible for ensuring the Premises and the vending cart is well cared for, clean and an enhancement to the community as a whole.

D. Concessionaire agrees that the County shall not be responsible to Concessionaire for any loss of property at the Premises, however occurring.

E. Concessionaire agrees that the Premises are located in and adjacent to a multi-use public area at the Avila Beach Front Street Plaza. Concessionaire shall operate and conduct its business in a good, efficient and economical manner so as to be conducive to providing service to the public on a fair, equal and not unjustly discriminatory basis and in a manner conducive to the obtaining and retaining of the general good will of the community and of the public.

F. Concessionaire shall not use the Premises during the term of this Contract for any purpose other than as set forth in this Section 3, without prior written consent of the Director. Concessionaire expressly agrees to maintain Premises in condition similar to the quality and service level of similar businesses in like locations.

G. Concessionaire shall at all times faithfully obey and comply with all present and future laws, rules and regulations of Federal, State, County or other governmental bodies or department of officers thereof, including but not limited, any relevant County of San Luis Obispo Health Agency licensing or permit requirements, rules or regulations. Concessionaire's use of said Premises is subject to all statutes, ordinances and regulations, including, without limitation, those relating to land use and zoning now or hereafter applicable to the Premises, and to all covenants, easements, reservations and restrictions of record applicable to the Premises.

H. Concessionaire shall be solely responsible for providing of all services, equipment, supplies, and personnel for the administration, staffing, operation and maintenance of the Concessionaire's business at the Premises as described in this Contract and within minimum operating requirements as stated in Exhibit B. Concessionaire shall provide food and beverages as described in Exhibit "C" at prices

Food and Beverage Vendors for Avila Beach Plaza

indicated in Exhibit "C". Concessionaire may only make changes to Concessionaire's food and beverage menu and pricing with the prior written approval of the Deputy Director of Parks.

I. Concessionaire shall obtain and keep current all local, state and federal licenses and permits that may be required in its operation under this Concessionaire.

4. **Contract Fee:** Concessionaire shall pay the County the sum of \$_____ per year of this contract , paid in equal quarterly installments in advance of each quarter starting March 1, 2013 to the Parks finance officer located at 1087 Santa Rosa Street San Luis Obispo, CA 94308. Payments shall be on or before the following dates and in the following amounts:

Year One

March 1, 2013 1st payment installment due

June 1, 2013 2nd payment installment due

September 1, 2013 3rd payment installment due

December 1, 2013 4th payment installment due

Year Two

March 1, 2014 1st payment installment due

June 1, 2014 2nd payment installment due

September 1, 2014 3rd payment installment due

December 1, 2014 4th payment installment due

No portion or portions of fees shall be refunded for any unused portion of the Term, whether this Concessionaire is terminated by Concessionaire, the County or any other entity prior to completion of the Term.

Food and Beverage Vendors for Avila Beach Plaza

5. Improvements to Premises: Concessionaire accepts the Premises in an “as is” condition. At the expiration or earlier termination of this Contract, all alterations, modifications, or improvements upon the Premises whether made by the County or by the Concessionaire absent any agreement between the County and the Concessionaire to the contrary at the time of installation, or unless County otherwise elects, which election shall be made by giving a notice in writing not less than fifteen (15) days prior to the expiration or other termination of this Contract, shall remain upon and be surrendered with the Premises as a part thereof at the end of the term of this Contract. In the event County shall notify Concessionaire to remove any and all of the alterations, additions, or improvements made by the Concessionaire, Concessionaire shall promptly, at Concessionaire’s sole cost and expense, remove items and repair any damage caused by such removal.

6. Inspections: County, its officers, agents and employees, shall have the right to examine the Premises at any time (at least on a quarterly basis), determine what repairs are needed and to direct Concessionaire to make such repairs, resulting from Concessionaire’s use of the Premises, as may be necessary at the sole cost and expense of Concessionaire. Quarterly inspections will be performed in the presence of Concessionaire representative, with the results provided in writing to the Concessionaire. In the event Concessionaire fails to make repairs discovered in the inspection, the County may make said repairs and charge Concessionaire for the cost of said repairs and Concessionaire agrees to pay any and all such costs upon demand. County, its officers, agents and employees, shall have access to and the right to enter upon the Premises at any time to examine condition thereof, to make any repairs required to be made by County hereunder, and for any other purpose deemed reasonable by County.

7. Repairs Maintenance and Alterations: Concessionaire, at Concessionaire’s sole cost and expense, shall maintain and keep the Premises and all improvements placed thereon in a clean, safe, sanitary condition, and good state of repair during the term of this Contract and shall not, at any time, commit or suffer to be committed any waste, nuisance,

Food and Beverage Vendors for Avila Beach Plaza

or unlawful act thereon resulting from their use of the Premises. Maintenance will include regular litter pickup, trash disposal, and any routine maintenance activities associated with regular use of the Premises. Concessionaire shall haul out their own trash. Should the Concessionaire fail or neglect to make repairs, as necessary to protect the health, safety, or welfare of individuals using the Premises, County may, after ten (10) working day's written notice to Concessionaire, make said repairs and charge Concessionaire for same, and Concessionaire shall pay County costs for repairs on demand.

The Concessionaire shall have the right to make limited and conditional alterations to the Premises. Such alterations made by Concessionaire are subject to the following conditions:

A. No alterations shall be made until plans and specifications are submitted to the Director for written approval.

B. All work performed in connection with any alteration shall be performed in a good and workmanlike manner and in compliance with all building and zoning laws, and with all other laws, ordinances, orders, rules, regulations, and requirements of all federal, state, and municipal governments and appropriate departments, commissions, boards, and officers thereof.

C. There shall be maintained at Concessionaire's expense, at all times during permitted construction or alteration, worker's compensation insurance in accordance with laws covering all persons employed in connection with alteration, and general liability insurance for the mutual benefit of the County and Concessionaire covering the additional hazards during construction of any alteration.

D. Concessionaire hereby agrees to be solely responsible for the total care and maintenance of fixtures and equipment installed by Concessionaire or its predecessors servicing the Premises, irrigation, water features, lighting, trees and planters including all costs in connection therewith.

8. Insurance:

Concessionaire shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damage to property which may arise from or in

Food and Beverage Vendors for Avila Beach Plaza

connection with the performance of the work hereunder and the results of that work by the Concessionaire, his agents, representatives, employee's, or subcontractors. With respect to General Liability, Errors & Omissions, Contractors Pollution Liability, and/or Asbestos Pollution Liability, coverage should be maintained for a minimum of five (5) years after Contract completion.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

- a. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 07 04 covering CGL on an "occurrence" basis, including products-completed operations, property damage, bodily injury, & personal injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering any auto (Code 1), or if Concessionaire has no owned autos, hired (Code 8) and non-owned (Code 9) autos, with limit no less than \$1,000,000 per accident for bodily injury and property damage.
- c. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- d. **Concessionaire's Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions** applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year.

Deductible and Self Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the County. At the option of the County, the Concessionaire shall provide coverage to reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers,

Food and Beverage Vendors for Avila Beach Plaza

officials, employees, and volunteers; or the Concessionaire shall provide evidence satisfactory to the County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

Other Insurance Provisions

- A. The General Liability, Automobile Liability, Concessionaire's Pollution Liability, and/or Asbestos Pollution policies are to contain, or be endorsed to contain, the following provisions:
1. The County, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the Concessionaire; and with respect to liability arising out of work or operations performed by or on behalf of the Concessionaire including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Concessionaire's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 forms if later revisions used).
 2. For any claims related to this project, the Concessionaire's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents, or volunteers shall be excess of the Concessionaire's insurance and shall not contribute with it.
 3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice has been given to the County.

Food and Beverage Vendors for Avila Beach Plaza

- B. The Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Concessionaire pursuant to the Contract. This coverage may also be provided on the Concessionaire's Pollution Liability policy.
- C. If General Liability, Concessionaire's Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions coverages are written on a claims-made form:
1. The retroactive date must be shown, and must be before the date of the Permit or the beginning of Contract work.
 2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Contract of work.
 3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract effective date, the Concessionaire must purchase an extended period coverage for a minimum of five (5) years after completion of Contract work.
 4. A copy of the claims reporting requirements must be submitted to the County for review.
 5. If the services involve lead-based paint or asbestos identification / remediation, the Concessionaire Pollution Liability shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification / remediation, the Concessionaire Pollution Liability shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII if admitted in the State of California. If Concessionaire Pollution Liability, Asbestos Pollution and/or Errors & Omissions coverages are not available from an admitted insurer, the coverage may be written by a non-admitted insurance company. A non-admitted

Food and Beverage Vendors for Avila Beach Plaza

company should have an A.M. Best rating of A:X or higher. Exception may be made for the California State Compensation Insurance Fund if not rated.

Verification of Coverage

Concessionaire shall furnish the County with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this Contract. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Concessionaire's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Waiver of Subrogation

Concessionaire hereby grants to County a waiver of subrogation which any insurer may acquire against County, its officers, officials, employees, and volunteers, from Concessionaire by virtue of the payment of any loss. Concessionaire agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

Workers' Compensation

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the County for all work performed by the Concessionaire, its employees, agents, and sub Concessionaires.

Sub Concessionaires

Concessionaire shall require and verify that all sub Concessionaires maintain insurance meeting all the requirements stated herein.

Food and Beverage Vendors for Avila Beach Plaza

Special Risks or Circumstances

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. The Certificate of Insurance and coverage verification and all other notices related to cancellation or non-renewal shall be mailed to: General Services Agency addressed as follows:

Attn: Larry Iaquinto, Parks Superintendent
San Luis Obispo County
General Services Agency
1087 Santa Rosa Street
San Luis Obispo, CA 93408

9. **Indemnification:** Concessionaire shall defend, indemnify and hold harmless the County, its officers and employees from all claims, demands, liability, loss, injury, damages, costs, expenses, judgments, attorney and expert witness fees, or other losses that may be asserted by any person or entity, including Concessionaire, and that arise out of or are made in connection with the negligent or wrongful acts or omissions relating to Concessionaire's performance of any obligation or duty provided for or relating (directly or indirectly) to this Contract, whether or not such claim is caused in whole or in part by the active or passive negligence of County, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to provide the County the fullest indemnification, defense, and hold harmless rights allowed under the law. If any word(s) contained herein are deemed by a court to be in contravention of applicable law, said word(s) shall be severed from this Contract and the remaining language shall be given full force and effect.

10. **Waiver:** Concessionaire hereby waives any and all claims for damages that may be caused by County in re-entering and taking possession of the Premises, and all claims

Food and Beverage Vendors for Avila Beach Plaza

for damages that may result from the destruction of or injury to the Premises thereby, and all claims for damages to or loss of such property belonging to Concessionaire as may be in or upon the Premises at the time of such re-entering. Concessionaire hereby also waives any and all claims against County for loss or damages to any property of Concessionaire from any cause arising at any time.

11. **Assignment:** This Contract is of a personal nature and Concessionaire shall not assign, sublet, mortgage, pledge or otherwise transfer this Contract, either voluntarily or by operation of law, in whole or in part.

12. **Rules:** The County reserves the right at any time to make such reasonable rules and regulations as in its judgment may from time to time be necessary for the safety, care, and cleanliness of the Premises, and for the preservation of good order therein, and Concessionaire hereby agrees to strictly comply therewith.

13. **Venue and Choice of Laws:** This Contract has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Contract shall be determined and governed by the laws of the State of California and in a court of competent jurisdiction located in San Luis Obispo County.

14. **Repair and Surrender:** Concessionaire hereby accepts the Premises in good condition and agrees to surrender possession of and restore the Premises unto County in the same and as good condition as received upon termination of this Agreement. Concessionaire further agrees to promptly repair any and all damage caused by Concessionaire in the use of the Premises.

15. **Termination of Contract for Convenience of Either Party.** Either party may terminate this Contract at any time by giving to the other party 60 days written notice of such termination. Termination shall have no effect upon the rights and obligations of the

Food and Beverage Vendors for Avila Beach Plaza

parties arising out of any transaction occurring prior to the effective date of such termination.

16. **Breach:** This Contract is granted by the County upon the condition that in the event the County deems objectionable or improper any conduct on the part of the Concessionaire, its employees or agents, which shall not have been remedied or corrected within a period of ten (10) days after written notice thereof by County to Concessionaire; or if default or breach of this Use Permit be made by Concessionaire in any of the covenants herein contained and Concessionaire shall continue in such default or breach; or should any attachment, garnishment or execution be levied against the Concessionaire or County's property and not be removed within ten (10) days after written notice from County; or if Concessionaire shall cease its operations under this Contract for causes other than destruction of the Premises, on giving ten (10) days notice of intention to do so, and upon expiration of said notice, County, or its agents or employees, shall be entitled to the immediate possession of the Premises. The exercise of the remedies provided for in this section shall be cumulative and in no way affect or replace other remedies available to County.

17. **Independent Contractor Status:** Concessionaire enters into this Contract solely and exclusively as an independent contractor and only in that capacity and not as a partner or employee of the County.

18. **Provisions Deemed Covenants and Conditions:** The parties hereto agree that all of the provisions hereof are to be construed as covenants and conditions as though the words importing such covenants and conditions were used in each instance, and that all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

Food and Beverage Vendors for Avila Beach Plaza

19. **Notices:** All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and deposited in the United States Mail, postage prepaid and addressed as follows:

To Permittee at: _____

Contact Person: _____

To County at: County of San Luis Obispo
General Services Agency
1087 Santa Rosa Street
San Luis Obispo, CA 93408
Attention: Parks Superintendent

Contact Person: Larry Iaquinto,
Parks Superintendent - Parks (805) 781-5209

20. **Severability:** The invalidity of any provision of this Contract shall not affect the validity, enforceability of any other provision of this Contract.

21. **Business Interruption:** Concessionaire shall have no claim to County for damages or lost income if, for any reason, Concessionaire experiences an interruption in business operations however occurring at the Premises.

22. **Power and Authority of Permittee:** If Concessionaire is a corporation or a limited liability company, Concessionaire represents and warrants that the person(s) signing this Contract have full authority and authorization to bind Concessionaire to the terms, covenants, and conditions contained herein.

23. Entire Agreement and Modifications: This Contract supersedes all previous Contracts and/or Agreements between the parties and constitutes the entire understanding of the County and Concessionaire. Concessionaire shall be entitled to no other benefits than those specified herein. No changes, amendments, or modifications shall be effective unless in writing and signed, in advance of the effective date of the change, amendment or modification, by both parties. Concessionaire specifically acknowledges that in entering into this Contract, Concessionaire relies solely upon the provisions contained in the Contract and no other Agreement whether written or oral prior to entering this Contract. IN WITNESS WHEREOF, County and Concessionaire agree to all of the terms and conditions hereinabove set forth.

/////////////////NOTHING FURTHER EXCEPT SIGNATURES/////////////////

COUNTY OF SAN LUIS OBISPO

By: _____
Chairperson of the Board of Supervisors

Approved by the Board of Supervisors this

day of _____, 2013.

ATTEST:

Clerk of the Board of Supervisors

Food and Beverage Vendors for Avila Beach Plaza

PERMITTEE:

By _____

Name and Title

Date: _____

APPROVED AS TO FORM AND
LEGAL EFFECT:

RITA L. NEAL

County Counsel

By: _____

Deputy County Counsel

DATE: _____

EXHIBIT "A" FOR AVILA PLAZA

Red block indicates Premises Location

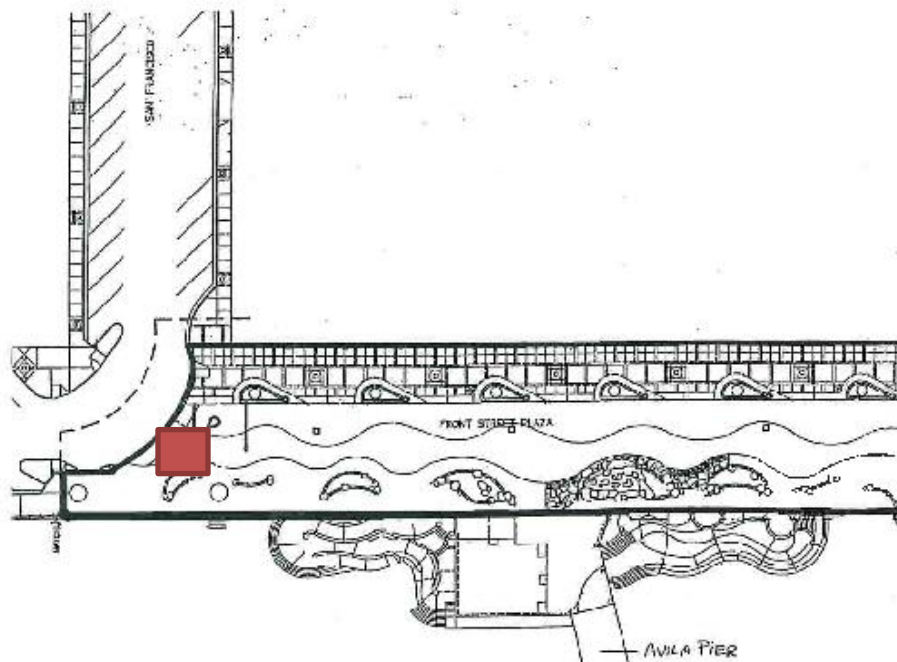


EXHIBIT A

EXHIBIT "B"

The vending cart shall be well stocked and operated at the time and during the days of the week as set forth below. The below hours of operation are mutually agreed upon by Concessionaire and County to best serve the public and represent Concessionaire's minimum service requirements. If Concessionaire desires to adjust the hours or days of operation such that they are below these minimum requirements, Concessionaire shall secure the prior written permission of County. Concessionaire may elect to provide hours of operation above and beyond those defined below upon written notification to, and approval by, the County.

Summer Season

The summer season is defined for the purpose of this Contract as commencing annually on the first day of Memorial Day and ending on the last day of Labor Day weekend. Concessionaire shall operate its business six (6) days per week, including all Saturdays, Sundays and holidays, from noon to 5:00 p.m., weather permitting.

Concessionaire is entitled to two (2) consecutive or non-consecutive "no-show" days, excepting Saturdays, Sundays and holidays during the summer season without being considered in breach of this Contract, provided Concessionaire notifies the County, in writing, two weeks in advance.

Fall Season

The fall season is defined for the purpose of this Contract as commencing annually on the day after Labor Day weekend and ending the following October 31. Concessionaire shall operate its business on all Saturdays, Sundays and holidays, between the hours of noon to 5:00 p.m., weather permitting, during the fall season.

Food and Beverage Vendors for Avila Beach PlazaWinter Season

The winter season is defined for the purpose of this Contract as commencing annually on November 1 and ending the following March 31. There are no minimum days or hours of operation requirements during the winter season.

Spring Season

The spring season is defined for the purpose of this Contract as commencing annually on April 1 and ending at the close of business on the Friday immediately prior to Memorial Day weekend. Concessionaire shall operate its business on all Saturdays, Sundays and holidays, between the hours of noon to 5:00 p.m., weather permitting.

EXHIBIT "C"

This exhibit is a listing of products to be sold, with pricing.

SAMPLE